



WISCONSIN REGULATORY DIGEST

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How a Complaint is Closed

The state veterinary examining board has the job of evaluating complaints against veterinary license holders within the state. The process is as follows; the board receives a complaint, the screening committee of the board then evaluates the complaint to see if it should be further investigated; if so, it is referred to an investigator who collects evidence and submits it to the board member that has been selected to act as a case advisor, he/she then evaluates the evidence and makes a recommendation as to whether there should be disciplinary action taken or if the case should be closed.

When an advisor recommends that a case be closed he/she will identify the reason or rationale for making that recommendation. Closing a case means

no disciplinary action will be taken. The following is a brief review of the choices that may be identified as the reason a case be closed:

1. Lack of jurisdiction. This means the board has no authority to act on the case submitted.
2. Insufficient evidence for prosecution. The evidence that was obtained was inconclusive or undocumented.
3. No violation. The information obtained indicates that the professional acted appropriately and no violation occurred.
4. Prosecutorial discretion. This could be identified as a reason for closure in the following situations:

a. After review it is determined a violation has occurred, however, the case advisor recommends to close because of one of the following reasons:

1. It was a minor or technical violation that was not harmful to the public.
2. The license holder committed a minor violation but has now come into compliance with the law.
3. It may have been a more significant violation but it did not cause serious harm. Pursuing the violation would be too costly and not greatly benefit consumer interests.

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4. The conduct was not below the minimal standards of the profession.

5. A violation occurred but the person in question cannot be located or no longer holds a current license to practice. The case can be closed and a “hold” placed on that person’s license. The case can be reopened if renewal of the license requested.

6. There may be a possible violation but litigation is pending on the license holder and the evidence is unavailable. Once the evidence is available the case can be reopened.

7. A violation has occurred but the board has already addressed the conduct and further action unnecessary. This means while the board was investigating a complaint another similar incident occurred. The decision in the first case will satisfy the second complaint.

5. Administrative closure. The case would be closed because there was a duplicate complaint, a file was opened in error or the Respondent named is incorrect.

Types of Discipline the Board May Order

When the advisor decides the violation that occurred is serious enough to take disciplinary action then he/she recommends a discipline. The three goals of disciplinary action are to deter, rehabilitate, and to protect the public. These are the types of discipline that may be recommended:

1. Reprimand. A reprimand is a formal disciplinary action which takes official notice of a violation that has been proved, but does not impose any further sanction against the license holder.

2. Administrative Warning. A warning may be issued if the violation meets four criteria.

- a. That there is specific evidence of misconduct.
- b. That it is the first occurrence of misconduct.
- c. That the misconduct is a minor violation.
- d. That the administrative warning will adequately protect the public.

The warning is publicly announced but the specific reason for it is private and confidential.

3. Limitation. A limitation may prohibit the license holder from practice in a specialty area of the profession, require work be reviewed by a colleague or expert, or require a licensee to participate in an ongoing therapy or treatment program. The goal of a limitation is to ensure the public is protected from certain conduct of the license holder, while still allowing the license holder to practice that part of their profession that can be performed competently.

A type of limitation that is frequently used is the requirement to complete a retraining or re-education course. Most often the license holder is required to complete the program successfully before he/she can continue to practice in that area of their profession.

A limitation can be placed on a credential holder in conjunction with a reprimand or suspension.

4. Suspension. A suspension is a sanction which removes the license holder from practicing their profession for a specific period of time. A suspension is often imposed as a deterrent or to protect the public for a specific period of time. A suspension is often imposed as a deterrent or to protect the public for a specific period of time. It is used in combination with limitation or retraining of the credential holder to ensure the public remains protected when the license holder returns to work.

5. Revocation. A revocation is the removal of the credential holder’s license. A revocation is permanent unless the credential holder petitions the board to reinstate his/her license. It is the license holder’s responsibility to show evidence he/she should have the license reinstated.

Department Overview

by Secretary Marlene A. Cummings

As Secretary of the Wisconsin Department of Regulation and Licensing, I am frequently asked for information about the department and believe that it is useful from time to time to discuss the structure and philosophy which guides the work of this department as well as providing information of the department’s current strategic business goals.

The Department of Regulation and Licensing is an umbrella agency, which provides services to over 20 boards. These boards are responsible for the regulation of a wide variety of professions and the department independently regulates many other professions, occupations and entities. There are basically three different regulatory activities provided by the boards and the department. They are: 1) the application and examination process; 2) defining what the credentials entitles the credential holder to do through scope of practice; professional conduct and professional ethics written into administrative code, and; 3) enforcement.

One of the more unique oversight board arrangements in the department is the joint board which regulates professional engineering, architects, landscape architects, designers and land surveyors. This joint board is in the Division of Business Licensure and Regulation. The division is divided

into two bureaus to allow for more direct service staff to become better acquainted with the issues surrounding each profession.

This board, along with all other boards in the department, set standards of professional competence and conduct for the profession under its charge; prepares, conducts and grades the examinations of prospective new practitioners; grants licenses; investigates complaints of alleged unprofessional conduct; and performs other functions assigned to it by law. One of the most important departmental responsibilities is to assist the boards in discharging these duties.

In addition the department also:

- * Acts as a conduit for professions and their interaction with other state agencies or the governor's office.
- * Has broadened its enforcement authority to respond more effectively and efficiently to complaints of unlicensed practice. Through the administrative injunction process, the department is able to effectively enforce licensure requirements.
- * Is in the process of using new technology to upgrade our services to customers through expanded use of automated telecommunications services and by facilitating electronic transmission of information via the internet.
- * Is exploring more opportunities for seminars and information exchanges with professional credential holders and their statewide associations to learn more about the professions and how we can provide better services.

Division of Enforcement

A critically important component of the role played by the Department of Regulation and Licensing (DORL) in overseeing professions subject to licensure and regulation is the Division of Enforcement (DOE), headed by Jack Temby.

The DOE is a large division comprised of attorneys, investigators and support staff. Their primary mission is to conduct investigations of complaints received by the department concerning the conduct of persons holding professional credentials or licenses issued by the department. In the most recently completed biennium (1995-97) more than 4,400 complaints were received and processed by the division. When appropriate, complaints are resolved through mediation. However, if it appears

there has been a violation of the laws enforced by the boards or department, formal disciplinary action may be commenced against the credential holder involved.

There are four distinct phases of the case handling process and are as follows:

- * **Intake Stage:** This is the first stage in the case handling process. Cases are screened by screening panels to determine if an investigation is warranted. Cases that do not warrant investigation are quickly closed. Cases that appear to have merit are identified for investigative action.
- * **Investigation Stage:** This is the next stage in the case handling process. Investigative staff gather necessary evidence and make contacts with witnesses as needed. The results of the investigation are discussed with a case advisor and a department attorney. Cases that do not warrant professional discipline are closed. Cases with violations proceed to the next stage for legal action.
- * **Legal Action Stage:** In this stage, department prosecuting attorneys, in conjunction with case advisors, review the results of the investigation and pursue disciplinary action when appropriate. Cases may resolve by means of stipulated agreements, informal settlement conferences or letters of concern.
- * **Hearing Stage:** The last stage is the hearing stage. This is a formal legal process. The department attorney litigates the case before an administrative law judge. The law judge makes a proposed decision which is reviewed by the licensing board. If a violation is found, discipline may be imposed. Disciplines include reprimand, limitation, suspension and revocation.

To file a complaint you may contact the Division of Enforcement by calling (608) 266-7482 or (608) 266-3736, or write the Department of Regulation and Licensing, Division of Enforcement, P.O. Box 8935, Madison, WI 53708-8935.

Y2K Update

By the end of this year, everyone - no doubt - will be tired of hearing about the Y2K "problem." The issue has received, and will continue to receive, considerable attention in the media and in the workplace. Governor Tommy Thompson has made Y2K readiness one of the top priorities of his administration and is committed to ensuring that state agencies are

ready to deal with any and all problems which may result from the coming of the year 2000.

The Department of Regulation and Licensing, like all other state agencies, has been preparing for the last couple of years now for the switch to the year 2000. We have analyzed major functions in the department and have identified areas where work was needed in order to prepare for a smooth transition to the year 2000. We are confident that our preparations are on track and we anticipate no major problems in the department as we approach the year 2000.

There are three main areas which can summarize our progress towards dealing with Y2K issues. They are:

Applications: All of our applications have been converted over to the Oracle database and these processes are Y2K compliant.

Hardware and System Software: The department is currently in the process of upgrading all of our personal computers to ensure that they are Y2K compliant. This upgrade is expected to be completed by April, 1999. A complete department-wide testing of all computer hardware devices is being planned for July, 1999.

Contingency Plans: The department is also developing a contingency plan to address issues related to business resumption in case a disaster involving unforeseen problems may arise due to Y2K issues. This contingency plan is expected to be completed by May, 1999.

We are confident that our actions to date and the additional efforts which will unfold over coming months will ensure that the department will see a smooth transition from 1999 to 2000. We will keep you posted on an "as needed" basis should other issues materialize or if we need to provide any additional information regarding departmental goals and actions which are aimed at successfully managing the Y2K issue.

Disciplines

NEIL RECHSTEINER, D.V.M.

GREEN BAY WI LIMITED/EDUCATION

A cat presented with diarrhea and vomiting. Exploratory surgery was performed. No significant findings were made. Cat was returned to the clinic several times for treatment. A second surgery was performed. The cat was presented to a different veterinarian with the complaint of failure of the previous two surgeries to heal. The wound was treated with Amoxicillin and Granulex spray. Cat was reexamined and evidenced decreased infection and was healed in several days. Effective 7/15/98. VE 7.06(1) Case # LS9807152VET

WILLIAM R. LOSCH, D.V.M.

ST. PAUL VETERINARY CLINIC

MILWAUKEE WIEDUCATION/REPRIMAND

Failed to perform adequate testing to permit successful diagnosis of a female dachshund. Effective 10/15/98. VE 7.06(1) Case #LS9810152VET

DAVID MILLS, D.V.M.

CLEVELAND WI

SUSPENDED INDEFINITELY/COSTS

Failed to perform a complete ovariohysterectomy on a black Labrador. Made false statements to the animal's owners and the department regarding his treatment of the animal. Failed to maintain accurate history, physical examination findings, and treatment details regarding the animal. Effective 4/28/99. VE 7.03 (1), 7.06 (1),(2). Case #LS9708281VET

Telephone Directory

Automated Phone System for the Health Professions: (608) 266-2811

Press 1 **Request Application**

Press 2 **Name or Address Change**

Need a Duplicate License

Request a Letter of Good Standing

Press 3 **Complaint Filing Information**

Press 4 **Status of a Pending Application**

Press 5 **Verifying Current Status of a
 Credential Holder**

Press 6 **Repeat Menu Choices**

Fax (608) 261-7083

Verifications

All requests for verification of license status must be in writing. There is no charge for this service.

Endorsements

Requests for endorsements to other states must be in writing. The cost is \$10. Please make check or money order payable to the Department of Regulation and Licensing.

1999 Meeting Dates

September 29, October 27, November 24,
December 22.

Digests on Web Site:

November, 1997; June, 1998; December 1998

Visit the Department's Web Site

<http://badger.state.wi.us/agencies/drl/>

Send comments to dorl@mail.state.wi.us

Wisconsin Statutes and Code

Copies of the Veterinary Statutes and Administrative Code can be ordered through the Board Office. Include your name, address, county and a check payable to the Department of Regulation and Licensing in the amount of \$5.28. The latest edition is dated January, 1999.

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Please photocopy the mailing label of this digest, make changes in name or address, and return it to the Department. Confirmation of changes are not automatically provided.

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\$50 PENALTY TO BE IMPOSED WHEN
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WITHIN 30 DAYS.**

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